

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 BYW FRANCHISE DEVELOPMENT, LLC, ) Case No.: 2:11-cv-01568-GMN-GWF  
4 )  
5 Plaintiff, ) **ORDER**  
6 vs. )  
7 JH DEVINE INVESTMENTS 10, INC., and )  
8 CHERIE HUILLADE, )  
9 Defendants. )

10 Before the Court is Plaintiff BYW Franchise Development, LLC.'s Motion for  
11 Temporary Restraining Order and Preliminary Injunction (ECF No. 2).

12 Fed. R. of Civ. P. 65(b) provides that a Temporary Restraining Order may issue  
13 without written or oral notice to the adverse party or its attorney only if:

- 14 (A) specific facts in an affidavit or a verified complaint clearly  
15 show that immediate and irreparable injury, loss, or damage will  
16 result to the movant before the adverse party can be heard in  
17 opposition; and  
18 (B) the movant's attorney certifies in writing any efforts made to  
19 give notice and the reasons why it should not be required.

19 Plaintiff has failed to provide the required information for both subsections (A) and (B) of  
20 Rule 65(b). Although Plaintiff does submit a verified complaint, the facts do not show that  
21 immediate and irreparable injury will result *before* the adverse party can be heard in  
22 opposition. Second, Plaintiff's attorney does not certify in writing *any efforts made to give*  
23 *notice and the reasons why it should not be required*. It does not appear that Plaintiff has  
24 served Defendants with the Complaint or the Motion for Temporary Restraining Order or  
25 Preliminary Injunction. Accordingly, the Court denies Plaintiff's Motion for a Temporary

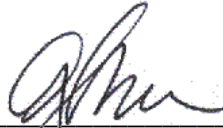
1 Restraining Order. *See Reno Air Racing Ass'n, Inc. v. McCord*, 452 F.3d 1126 (9th Cir.  
2 2006).

3 **IT IS HEREBY ORDERED** that Plaintiff BYW Franchise Development, LLC.'s  
4 Motion for Temporary Restraining Order is **DENIED** (ECF No. 2).

5 **IT IS FURTHER ORDERED** that a hearing on Plaintiff's Motion for a  
6 Preliminary Injunction is set for October 7, 2011 at the hour of 10:00 a.m. in Courtroom  
7 7D.

8 Plaintiff is **ORDERED** to serve Defendants with the Complaint, Motion for  
9 Preliminary Injunction and this **ORDER** not later than close of business on October 5,  
10 2011, and file proof of the same with Clerk of this Court.

11 DATED this 30th day of September, 2011.

12  
13  
14   
15 \_\_\_\_\_  
16 Gloria M. Navarro  
17 United States District Judge  
18  
19  
20  
21  
22  
23  
24  
25